U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
OCT 28 2016
CLERK, U.S. DISTRICT COURT
By ________
Deputy

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v. NO. 4:16-MJ-705

SCOTT BRANDON TOSCH

CRIMINAL COMPLAINT

I, Elmore Armstrong, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

1. I am currently a Special Agent with Homeland Security Investigations (HSI), U.S. Immigration and Customs Enforcement (ICE), assigned to the Office of the Special Agent-in-Charge, Dallas, Texas. I have been employed by HSI since June 2008. As part of my duties as an HSI agent, I investigate criminal violations relating to child exploitation and child pornography, including violations pertaining to the production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252, and 2252A. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media including computer media. I have been involved in numerous child pornography investigations and am very familiar with the tactics used by child pornography offenders who collect and distribute child pornographic material.

2. The information contained in this Complaint sets forth facts and suggests reasonable inferences from those facts, establishing that there is probable cause to believe that on or about August 18, 2016, in the Northern District of Texas, Scott Brandon Tosch, using a facility or means of interstate or foreign commerce, knowingly attempted to persuade, induce, and entice a person who had not attained the age of eighteen (18) years of age, to engage in any sexual activity for which any person can be charged with a criminal offense, in violation of 18 U.S.C. § 2422(b).

3. I am familiar with the information contained in this Complaint based upon the investigation that was conducted, my conversations with other law enforcement officers who have participated in this investigation, and the investigations involving online child enticement. This Complaint accurately summarizes the evidence I

discovered during my investigation; it does not, however, contain every detail known to me about the investigation.

THE INVESTIGATION

4. On or about August 18, 2016, members of the Fort Worth Police Department Crimes Against Children Unit, Internet Crimes Against Children Task Force, participated in an undercover detail. An apartment located on Calmont Avenue in Fort Worth, Texas, was obtained for the purpose of the undercover operation.

5. On that date, a person, later determined to be Scott Brandon Tosch, who a FWPD Detective, acting in an undercover capacity (UC), had been communicating with since August 16, 2016, through an internet-connected computer, arrived at the apartment set forth in paragraph 4 with the agreement that sexual conduct would take place between Tosch and a person he believed to be a 13-year old girl.

6. The communications between Tosch and the UC began on August 16, 2016, when the UC posted an advertisement on www.craigslist.com. The advertisement stated: "**summertime fun before school starts – w4m (fort worth)** hey bored and lookin for somethin to do while still summertime…school coming up soon…hmu".

7. At approximately 7:53 p.m., Tosch using the name "Brandon T" responded to the advertisement using the Craiglist email function. The initial response stated: "49, mwm., 6', 160. straight. Interested? Would appreciate at least stats in return if no pics available." At the bottom of this response were two photographs. The first photograph was of an adult white male taking a photograph of himself in a bathroom mirror with his underwear pulled down exposing the top of the pubic area just above the penis. The person's face was not exposed. The second photograph was of a male's naked erect penis.

8. The UC responded to the email stating that he was 13 years old. The conversation continued and switched to Google Voice texting. While on Google Voice, the UC sent a photograph to Tosch of a female, who was 13 years old when the photograph was taken, titled "me11". This photograph and others were donated to the Fort Worth Police Department for use in undercover child exploitation investigations. The donation of the photographs was this person's only involvement in the investigation.

9. Tosch then sent a photograph of himself that showed his face to the UC. Tosch also asked the UC if she had boyfriends and if she had given a "BJ" or "HJ". The UC knew through training and experience that these abbreviations are

for blowjob (oral sex) and handjob (masturbation). Tosch also clarified during the conversation that "HJ" meant a handjob.

10. Over the course of the conversation, Tosch sent several photographs of himself to the UC and also one of his vehicle, and the UC sent several more photographs of the same female who was approximately 13 years old at the time the photographs were taken. Tosch then sent a photograph to the UC of what appeared to be a naked adult female performing oral sex on a male naked erect penis. Tosch told the UC that that was him in the photograph with the wife of a "couple I play with".

11. The conversation then led to Tosch coming to pick up what he believed to be a 13-year-old female for sexual intercourse. The UC also told Tosch that he had to use a condom to prevent pregnancy. Tosch responded, "Definitely" and "Don't need that". The UC also asked Tosch to use lubricant so it would not hurt and gave Tosch the address to the apartment on Calmont Avenue. The sexual activity Tosch described to the UC during the course of conversation would be a violation of Texas Penal Code § 22.011(a)(2).

12. On August 18, 2016, at approximately 6:25 p.m., Tosch arrived at the meet location, and was driving the same vehicle as the one in the photograph that he sent to the UC. He was the same person as the male in the photographs sent to the UC. The Fort Worth Police Department took Tosch into custody at that time.

13. During the interview, Tosch stated:

- He responded to the craiglist.com advertisement;
- He acknowledged sending photographs of his naked erect penis;
- He agreed that he should have stopped talking to the UC after the UC told him she was 13 years old;
- He acknowledged talking about "blowjobs" and "handjobs", sending the photograph of the female performing oral sex, and that he brought condoms and lubricant;
- He said that the conversation should not have taken place and he was not "thinking right"; and
- He acknowledged that he engaged in the online solicitation of a minor.

14. After his arrest, officers inventoried Tosch's vehicle and found an HTC cell phone, a GPS, eleven "Skyn" condoms and a pack of Platinum lubricant. The UC saw the cellphone before putting in into airplane mode and turning it off, and the screen showed the last of the conversation between Tosch and the UC. The UC also saw that Tosch was using a cell phone application that masked the true cell phone number from the person he was texting.

CONCLUSION

15. Based on the foregoing facts and circumstances, there is probable cause to believe that on or about August 18, 2016, in the Northern District of Texas, Scott Brandon Tosch, using a facility or means of interstate or foreign commerce, knowingly attempted to persuade, induce, and entice a person who had not attained the age of eighteen (18) years, to engage in any sexual activity for which any person can be charged with a criminal offense, in violation of 18 U.S.C. § 2422(b).

Elmore Armstrong, Special Agent
Homeland Security Investigations

SWORN AND SUBSCRIBED before me, at 9:50 am/pm, this 28th day of October, 2016.

JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE